IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Bail Appl..No. 5599 of 2007()

CRIME NO.867/07 OF TIRUR POLICE STATION

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PETITIONER: APPLICANT/ACCUSED NO.1

V.P.ABDURAHIMAN, S/O.MUHAMMED,
V.P.HOUSE, EKKAPARAMBIL, P.O.KUZHIMANA,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.P.M.RAFIQ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5599 OF 2007

Dated this the 18th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations of having committed offences punishable, inter alia, under Sec.468 of the IPC. He is the 1st accused. Altogether, there are two accused persons. The crux of the allegations is that the 2nd accused was introduced to the de facto complainant by the petitioner. The de facto complainant is a financier. He had advanced loan to the 2nd accused and the Registration Certificate of a vehicle was produced before the de facto complainant by the 2nd accused. That Registration Certificate now turns out to be a forged one. The transaction took place in March 2006. Twice earlier apprehending that proceedings may be initiated against the petitioner and the petitioner may be arrested, the petitioner had gone before the

learned Sessions Judge seeking anticipatory bail. On both such occasions, it was reported that the petitioner is not required to be arrested. But now the petitioner understands that a crime has been registered. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even going by the allegations, the petitioner has no better or contumacious role than introducing the 2nd accused to the de facto complainant and from that simple act it would be unjust to assume that the petitioner had any contumacious or culpable intent. The petitioner is willing to co-operate with the Investigator. Subject to appropriate conditions the petitioner may be granted anticipatory bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the de facto complainant knew only the 1st accused and it was the 1st accused who introduced the 2nd accused to him. The 2nd accused, it is submitted, is now abroad.

4. Having considered all the relevant circumstances, notwithstanding the opposition by the learned Public Prosecutor, I am satisfied that directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioner subject, of course, to

appropriate conditions which shall zealously ensure the interests of a fair, adequate and expeditious investigation.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 25/9/07. He shall be released on regular bail on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 26/9/07 and 27/9/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender

on 25/9/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.50,000/- without any sureties undertaking to appear before the learned Magistrate on 25/9/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge